

PROPOSITION 103
OFFICIAL TITLE

SENATE CONCURRENT RESOLUTION 1009

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE VI, SECTION 31, CONSTITUTION OF ARIZONA; RELATING TO THE JUDICIAL DEPARTMENT.

TEXT OF PROPOSED AMENDMENT

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. Article VI, section 31, Constitution of Arizona, is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

31. Judges pro tempore

Section 31. A. The legislature may provide for the appointment of members of the bar having the qualifications provided in section 22 of this article as judges pro tempore of courts inferior to the supreme court, EXCEPT THAT JUSTICES OF THE PEACE PRO TEMPORE SHALL HAVE THE SAME QUALIFICATIONS AS JUSTICES OF THE PEACE AND DO NOT HAVE TO RESIDE IN THE PRE-

CINCT IN WHICH THE JUSTICE OF THE PEACE PRO TEMPORE IS APPOINTED TO SERVE.

B. When serving, any such person shall have all the judicial powers of a regular elected judge of the court to which ~~he~~ THE PERSON is appointed. A person so appointed shall receive such compensation as may be provided by law. The population limitation of section 10 of this article shall not apply to the appointment of judges pro tempore of the superior court.

2. The Secretary of State shall submit this proposition to the voters at the next general election as provided by article XXI, Constitution of Arizona.

ANALYSIS BY LEGISLATIVE COUNCIL

The Arizona Constitution creates the office of justice of the peace, but is silent on the qualifications for the office. A state statute has been interpreted by Arizona courts to require that a justice of the peace be at least 18 years of age and reside in the precinct from which the justice is elected. There is no requirement that a justice of the peace be an attorney.

Proposition 103 would amend the Arizona Constitution to provide that a temporary justice of the peace must have the same qualifications as a justice of the peace, except that the temporary justice of the peace does not have to reside in the precinct in which the justice will serve. Under Proposition 103, a temporary justice of the peace would not be required to be an attorney.

ARGUMENTS "FOR" PROPOSITION 103

Throughout the State of Arizona, within its fifteen (15) counties, there is insufficient numbers of attorneys to act as judges to handle court cases in the sitting Judge's absence. The constitution of the State of Arizona provides for Pro Tempore Judges to set in for the sitting Judges' absences. The recent interpretation of the constitution of the Supreme Court created a situation where many courts were unable to staff these courts. The passage of Senate Concurrent Resolution 1009 will facilitate the ongoing daily operations of the courts. It will enhance opportunities for Justice of the Peace Pro Tempores to serve these counties to ensure the daily operations of the courts are not interrupted. It will enable conflicted cases to be heard more expeditiously and ensure a greater degree of the service of justice for all users of the lower courts of Arizona.

Many of the Justice of the Peace and their Pro Tempore Judges who are not attorneys have graduate degrees in other disciplines of life. These men and woman come from all walks of life and are generally a part of the community they serve. The passage of this bill will enable your community to be timely served, even if there is no one in the community, by a visiting pro tempore Judge.

It is not realistic to believe the framers of the constitution, who set the qualifications of the Justice of the Peace, would expect pro tem judges to be any less or more qualified than the Justice of the Peace who is elected to serve that court. The passage of this resolution will ensure that the Justice courts continue to operate as a people's court in serving the local communities.

G.M. Osterfeld, President, Maricopa County Justice Of The Peace Association, Buckeye

Victor "Mike" Wilkens, Treasurer, Maricopa County Justice Of The Peace Association, Tempe

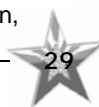
Paid for by "Maricopa County Justice Of The Peace Association"

As Presiding Justice of the Peace in Coconino County, I want to stress the importance of passage of this ballot item. In the past two years, an extreme hardship has been placed on our courts because, after a century of having the ability to have both attorney and non-attorney pro-tems, a legal interpretation led to the removal of all non-attorney pro-tems in our Arizona justice courts. Some of these pro-tems had served with dedication and excellence for many years of excellence, but were no longer "qualified." This will help alleviate the problem.

Our justice courts have functioned with both non-attorney and attorney justices of the peace and pro-tems since prior to statehood. Per statute, justices of the peace need not be attorneys, since they are elected by the voters. As a comparison, our elected positions of lawmaker, governor or even the President of the United States, do not require a law degree.

Spelling, grammar, and punctuation were reproduced as submitted in the "for" and "against" arguments.

GENERAL ELECTION NOVEMBER 2, 2004



Arguments “For” Proposition 103

2004 Ballot Propositions

In Coconino County, for instance, lawyer pro-tems sometimes need to be brought in as far as 200 miles away, at a great expense to the County. Many times, attorney pro-tems are not available. Again, passage of this measure will help tremendously.

Being required to have attorney pro-tems has had a crippling effect on many of the courts in the state, especially in the rural areas. Passage of this ballot item is vital.

Bill Sutton Jr., Williams Justice of the Peace/City Magistrate, Presiding Justice of the Peace; Coconino County, Williams

The Arizona Supreme Court recently made an interpretation of the Constitution of Arizona (Article 6-31) which eliminated the majority of temporary Justices of the Peace (Pro Tems) in Arizona. It is not uncommon for the Supreme Court to interpret the law in such a manner that the law must be changed to stay functional in today's society.

The Arizona Justice of the Peace Association supports this bill as it will require Justices of the Peace Pro Tem to have the same minimum qualifications as full-time elected Justices of the Peace. The Association has always supported the increase in qualifications for full-time and part-time Justices of the Peace including minimum age and years of education.

This bill will effectively:

- Save taxpayers thousands of dollars as Counties will be able to hire non-attorney members of the public as part-time judges.
- Better service to the public because of the greater availability of judges to serve.
- More judges will be available on Domestic Violence cases for emergency orders of protection.
- Greater availability of judges for search warrants on weekends and late at night.
- There will be less problems for judges who have conflicts with parties who are acquaintances of the judge.

A Yes vote will improve the services of Justice Courts in Arizona and keep the Justice Courts “the People’s Court.”

Hon. Fred Peterson, President, Arizona Justice of the Peace Association, Snowflake

Hon. David L. Widmaier, Secretary, Arizona Justice of the Peace Association, Pinetop-Lakeside

Hon. Alison Kolomitz, Treasurer, Arizona Justice of the Peace Association, Winslow

Paid for by “Arizona Justice of the Peace Association”

This referendum is asking the voters to approve an amendment to the Arizona Constitution to permit the appointment of non-lawyer substitute justices of the peace, referred to as “pro-tem” (temporary) judges. The need for this is the result of legal research conducted by the Supreme Court Administrative Office of the Courts in 2002. This review determined that since there was no specific constitutional language permitting non-lawyer pro-tem judges in the justice courts, the constitutional requirement for lawyer pro-tems in the superior courts would also apply to the justice courts.

Consequently in 2002, a system that served the justice courts and the people of Arizona since 1910 was severely disrupted; all non-lawyer pro-tem justices of the peace throughout the state were suddenly dismissed. The justice courts have yet to fully recover, and have struggled to provide the same level of service which existed prior to 2002. The requirement to hire lawyer pro-tem justices of the peace, especially in rural areas, is inefficient and costly due to a shortage of available attorneys.

Consider these facts:

- * Full time Justices of the Peace are not required to be lawyers.
- * Attorneys are not willing to work weekends and holidays.
- * The justice courts cannot employ many talented citizens who might be available, including former elected Justices of the Peace.
- * The quality and availability of service to the public have suffered.

The authors of Arizona’s constitution were correct in their vision of the justice of the peace courts as the “people’s court.” They intended the locally elected justice of the peace to be a person of the people, and specifically did not require this person to be a lawyer. This principle demands that the “substitute” should not be required as well.

We would urge the voters to vote “yes” on this measure.

Judge Larry D. Imus, Kingman Justice Court, Mohave County Presiding Justice of the Peace, Kingman

Judge Tom Brady, Bullhead City Justice Court, Bullhead City

Paid for by “Larry D. Imus”

ARGUMENTS “AGAINST” PROPOSITION 103

The Secretary of State’s office did not receive any arguments “against” Proposition 103.

BALLOT FORMAT

PROPOSITION 103

**PROPOSED AMENDMENT TO THE CONSTITUTION
BY THE LEGISLATURE**

OFFICIAL TITLE

SENATE CONCURRENT RESOLUTION 1009
PROPOSING AN AMENDMENT TO THE CONSTITUTION OF
ARIZONA; AMENDING ARTICLE VI, SECTION 31,
CONSTITUTION OF ARIZONA; RELATING TO THE JUDICIAL
DEPARTMENT.

DESCRIPTIVE TITLE

PROVIDES THAT INDIVIDUALS APPOINTED TO SERVE AS
JUSTICES OF THE PEACE PRO TEMPORE SHALL HAVE THE
SAME QUALIFICATIONS AS JUSTICES OF THE PEACE AND
PERMITS JUSTICES OF THE PEACE PRO TEMPORE TO
RESIDE OUTSIDE THE PRECINCT THAT THOSE
INDIVIDUALS ARE APPOINTED TO SERVE.

PROPOSITION 103

A "yes" vote shall have the effect of permitting individuals appointed to serve as temporary justices of the peace to have the same qualifications as elected justices of the peace and to allow temporary justices of the peace to reside outside the precinct that they are appointed to serve.	YES <input type="checkbox"/>
A "no" vote shall have the effect of retaining the requirement that temporary justices of the peace be attorneys.	NO <input type="checkbox"/>